



State of Alaska
Department of Labor and Workforce Development
Division of Labor Standards and Safety

AKOSH Program Directive 08-05

Date: December 28, 2007

To: Steve Standley, Chief of Enforcement

From: Grey R. Mitchell, Director

Subject: **AKOSH Alternative Payment Program**

Purpose:

This Program Directive implements the AKOSH Alternative Payment Program. The goal of this program is to expedite payment of established penalties and to support programs aimed directly at improving workplace safety and health results in Alaska.

Background:

Beginning in 2006, AKOSH piloted an alternative penalty payment program in the construction industry that provides direct support and assistance for contractors to participate in a formal drug and alcohol abuse testing and prevention system. In 2006, half of the fatalities investigated by AKOSH involved drug or alcohol abuse. Sixty-seven percent of these substance abuse related fatalities were in construction. This program is aimed directly at increasing awareness and eliminating workplace drug and alcohol abuse to improve workplace safety and health. In 2007, one drug or alcohol abuse related fatality was recorded in construction.

In addition to directing AKOSH penalties toward reducing workplace illnesses and injuries, the pilot program has improved penalty collection results. 100 percent of the penalties paid under the pilot program were made immediately without any collection action necessary. In cases not covered by the alternative penalty payment program, AKOSH has expended significant resources to collect penalties within 60 days. Nevertheless, many case files must be sent to a third party collection agency for further action, which results in a delayed penalty. Sometimes, penalties are never collected. Uncollected and delayed penalties do not serve as an effective deterrent for workplace safety and health violations.

Details:

Citations for willful, repeat or failure to abate alleged violations will not be eligible for the alternative penalty payment program. The Chief of AKOSH Enforcement will evaluate an alleged violator's level of perceived support for AKOSH's strategic goals as demonstrated by past history, management cooperation and participation in workplace hazard mitigation to determine whether the alternative penalty payment settlement option will not deteriorate the effect of the penalty.

The alternative penalty payment settlement option shall only be negotiated at the conclusion of the informal conference process after any proposed penalty reductions have been finalized. Participation in the alternative penalty payment settlement program shall not affect the cited violations or the penalty amount. Once the citations and penalties have been finalized and the employer has waived their right to contest the citations, the Chief of AKOSH Enforcement will present available alternative penalty payment options in the employer's industry. If no option exists in that industry, then no alternative will be presented.

The alternative penalty payment option requires proof of payment within 20 working days of the informal conference. Failure to make the payment within the 20 day period will result in the cancellation of the alternative payment agreement and the penalties shall become due to the State's General Fund and are subject to collection proceedings.

AKOSH staff will seek out potential programs that have a strong potential to benefit workplace safety and health results and will make referrals to the Chief of AKOSH Enforcement. The Chief of AKOSH Enforcement and Compliance Assistance Specialist will evaluate programs that provide for improved workplace safety and health results, particularly in high hazard industries such as construction, transportation and warehousing, and fish processing, for participation in the alternative penalty payment settlement program. Programs must also be evaluated and approved by the Director prior to receiving any alternative penalty payment settlement funds.

A recipient of an alternative AKOSH penalty payment shall be required to account for the funds and provide written verification of the specific workplace safety and health purpose for which the funds will be used. Program recipients who receive payments for ongoing efforts shall be required to submit reports at least annually to illustrate the effect of the payment on reducing workplace injuries and illnesses in Alaska. Programs that do not show positive results will be discontinued.

Implementation:

This program directive becomes effective immediately.

Please ensure that all members of your staff receive this program directive, and understand how to implement it.

Distribution List:

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